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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,246	06/27/2001	Jun Miura	SON-2150	1558
23353	7590	11/02/2004	EXAMINER	
RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036			LEURIG, SHARLENE L	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/891,246	MIURA ET AL.	
	Examiner	Art Unit	
	Sharlene Leurig	2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 51-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. The amendment filed on August 13, 2004 has been entered and acknowledged by the examiner.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 51-73 are rejected under 35 U.S.C. 102(b) as being anticipated by Jeong (5,602,442).

Regarding claims 51, 62 and 68, Jeong discloses a cathode ray tube comprising a reflective layer (103) between a screen panel (100) and a fluorescent layer (4B,R,G), wherein a peripheral edge of the fluorescent layer (4B) extends beyond a peripheral edge of the reflective layer.

The examiner notes that the claim limitations directed to the layers on the screen panel being transferred from a transfer foil are drawn to a process of manufacturing, which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation.

Consequently, absent a showing of a difference between the claimed product and the

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prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 52, 63 and 69, the reflective layer (3) and the fluorescent layer (4) are formed at the inner side of the screen panel.

Regarding claims 53, 64 and 70, the reflective layer is formed of a white inorganic layer (column 3, lines 51-55).

Regarding claims 54, 65 and 71, the reflective layer may be formed of titanium oxide, aluminum oxide, or magnesium oxide layer (column 3, lines 51-55).

Regarding claims 55 and 72, Jeong discloses a grid layer (102) between the reflective layer and the screen panel.

Regarding claim 56, Jeong discloses a reflective layer (103) having a smaller surface area than that of the fluorescent layer (104). The reflective layer is segmented, and each segment is thinner than the fluorescent layer. Surface area is defined as the sum total areas of a layer. Since the reflective layer is thinner than the fluorescent layer and covers less area on the screen panel, the reflective layer necessarily has a smaller surface area than the fluorescent layer.

Regarding claims 56, 59 and 73, the examiner notes that the claim limitation of the transfer foil including an adhesive layer between the grid layer and the screen panel is drawn to an intermediate product during the process of manufacturing, which is incidental to the claimed apparatus. The applicant's disclosure describes the adhesive layer being vaporized and removed during the manufacturing process (paragraph 0107). It is well established that a claimed apparatus cannot be distinguished over the

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prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 57, 60 and 66, Jeong discloses all the limitations discussed above with regard to claim 56. Furthermore, the Examiner notes that the claim limitation of the transfer foil being sandwiched between the screen panel and a transfer film that is releasably removable is drawn to an intermediate product during the process of manufacturing, which is incidental to the claimed apparatus. The applicant's disclosure describes the transfer film being removed during the manufacturing process (paragraph 0104). It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 58, 61 and 67, the Examiner notes that the claim limitation of a peeling layer being between the transfer film and the transfer foil is drawn to an intermediate product during the process of manufacturing, which is incidental to the claimed apparatus. The applicant's disclosure describes the peeling layer being vaporized and removed during the manufacturing process (paragraphs 0106 and 0107). It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

4. Claims 56-58, 63-67 and 69-73 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato et al. (JP 11-096948) (of record).

Regarding claims 56 and 72, Kato discloses a flat cathode ray tube having a fluorescent layer (4), described in paragraph 0014, and a reflective layer (3) described in paragraph 0008, the reflective layer being between the fluorescent layer and a screen panel (1) (paragraph 0007). A grid layer (2) is between the reflective layer (3) and the screen panel (1). The reflective layer and the fluorescent layer are formed on the inner side of the screen panel.

The total surface area of the reflective layer (3) is smaller than the total surface area of the fluorescent layer (4) because the reflective layer is thinner than the fluorescent layer (paragraphs 0017 and 0018), and the surface area is defined as the sum total areas of a layer. Since the reflective layer is thinner than the fluorescent layer and covers the same area on the screen panel, the reflective layer necessarily has a smaller surface area than the fluorescent layer.

Regarding claims 56, 63, 66 and 69, the examiner notes that the claim limitations directed to the layers on the screen panel being transferred from a transfer foil are drawn to a process of manufacturing, which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 56 and 73, the examiner notes that the claim limitation of the transfer foil including an adhesive layer between the grid layer and the screen panel is drawn to an intermediate product during the process of manufacturing, which is incidental to the claimed apparatus. The applicant's disclosure describes the adhesive layer being vaporized and removed during the manufacturing process (paragraph 0107). It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claim 57, Kato discloses all the limitations discussed above with regard to claim 56. Furthermore, the Examiner notes that the claim limitation of the transfer foil being sandwiched between the screen panel and a transfer film that is releasably removable is drawn to an intermediate product during the process of manufacturing, which is incidental to the claimed apparatus. The applicant's disclosure describes the transfer film being removed during the manufacturing process (paragraph 0104). It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 58 and 67, the Examiner notes that the claim limitation of a peeling layer being between the transfer film and the transfer foil is drawn to an intermediate product during the process of manufacturing, which is incidental to the

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claimed apparatus. The applicant's disclosure describes the peeling layer being vaporized and removed during the manufacturing process (paragraphs 0106 and 0107). It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 64 and 70, the reflective layer is formed of a white inorganic layer (paragraph 0008).

Regarding claims 65 and 71, the reflective layer is formed of a titanium oxide layer (paragraph 0009).

### ***Response to Arguments***

5. Applicant's arguments filed August 13, 2004 have been fully considered but they are not persuasive. The applicant has argued that the Kato reference fails to teach or suggest a reflective layer having a smaller surface area than that of the fluorescent layer. The examiner disagrees, as surface area is simply the sum total areas of an object or layer. Kato does disclose the reflective layer being thinner than the fluorescent layer, as cited above. The figures show the reflective layer covering the same area of the screen panel as the fluorescent layer. Therefore the reflective layer necessarily has a smaller surface area and the rejection is not improper.



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The applicant's request for a new non-final rejection has not been fulfilled, as the old grounds of rejection are proper for the reasons explained above, and any new grounds of rejection were necessitated by the applicant's amendment.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharlene Leurig whose telephone number is (571) 272-2455. The examiner can normally be reached on Monday through Friday, 8:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sll



**NIMESHKUMAR D. PATEL**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**